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OFFICE OF PETITIONS

In re Application of
Morrison et al.
Application No. 10/523,315
International Filing Date: August 1, 2003
For: MODIFICATION OF PLANT METABOLISM
Attorney Docket No: 290.00530101
Pub. No.: US 2006/0111335 A1
Pub. Date: May 25, 2006

This is a decision on the request for correction of patent application publication under 37 CFR 1.221 (b), filed on July 25, 2006, for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because the front page of the patent application publication mistakenly omits Taj Mohammad.

37 CFR 1.221 (b) is applicable “only when the Office makes a material mistake which is apparent from Office records.” A material mistake must affect the public’s ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.¹ The instant request does not identify a material mistake in the publication made by the office.

The omission of Taj Mohammad as an inventor on the front page of the publication is an Office mistake, but it is not a material error under 37 CFR 1.221(b). The error does not affect the public’s ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The Declarations submitted by applicant on September 16, 2005 is improper because the Declaration does not complete copies of each Declaration. When multiple Declarations are submitted, each Declaration must contain a complete listing of all the inventors. See MPEP 201.03(II)(B).

¹Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct 10, 2000) (final rule).

On February 1, 2006, a Filing Receipt was mailed by the Office, which improperly listed the inventive entity. To avoid this type of problem in the future, applicant's representative should review the Filing Receipt and make a request for a Corrected Filing Receipt.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta (571) 272-7709 (voice).

A handwritten signature in black ink, appearing to read 'M. Polutta', with a long horizontal line extending to the right.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy